

## **Article 9. Nonconformities**

### **9.1 General**

Except as specified in this Article, any use, building, structure, or sign existing at the time of enactment of this UDO or classification amendment applicable to its use, may be continued even though such use, building, structure, or sign may not conform with the provisions of this UDO for the district in which it is located; provided, however, that this Article shall not apply to any use, building, structure, or sign established in violation of this UDO or ordinance previously in effect in College Station.

### **9.2 Nonconforming Uses**

#### **A. Continuance**

An existing use that is not in compliance with this UDO or subsequent amendments applicable to the use shall not be enlarged, extended, reconstructed, substituted or structurally altered unless the use is brought into compliance with this UDO, except as follows:

##### **1. Expansion**

When authorized by the Zoning Board of Adjustment in accordance with the provisions of this Article, enlargement or completion of a building devoted to a nonconforming use may be made upon the lot occupied by such building, where such extension is necessary and incidental to the existing use of such building and does not exceed 25 percent of the original area of nonconformity.

##### **2. Conditional Use**

A use existing on the effective date of this UDO, or subsequent amendment applicable to its use, which would only be permitted as a conditional use, shall be a lawful nonconforming use until altered pursuant to Section 3.13, Conditional Use Permit. In the event of issuance of a conditional use permit, such use becomes a permitted and lawful use.

#### **B. Termination**

The City Council shall have the authority to initiate, on its motion, action to bring about the discontinuance of a nonconforming use under any plan whereby full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the area and the necessity for all property to conform to the regulations of this UDO.

#### **C. Abandonment**

Whenever a nonconforming use has been discontinued and changed to a conforming use, or whenever a nonconforming use has been discontinued or abandoned for more than three months, a presumption of intent to abandon said use shall have been established and the right to continue the former nonconforming use shall no longer exist. Subsequent operation as a nonconforming use shall be unlawful.

### **9.3 Nonconforming Structures**

#### **A. Enlargement, Alteration**

A structure, exclusive of parking lots, structures, or areas, which is nonconforming by physical design may be enlarged or structurally altered as

long as such enlargement or alteration otherwise complies with the terms of this UDO.

**B. Termination**

The City Council shall have the authority to initiate on its motion, or cause to be presented by interested property owner, action to bring about the discontinuance of a nonconforming structure under any plan whereby full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this UDO.

**C. Abandonment**

Whenever a nonconforming structure has been discontinued or abandoned for more than three months, a presumption of intent to abandon said structure shall have been established and the right to continue the former nonconforming structure shall no longer exist. Subsequent operation as a nonconforming structure shall be unlawful.

**9.4 Nonconforming Lots of Record**

**A. Authority to Utilize for Single-Family Residence**

In any district in which single-family dwellings are a permitted use, notwithstanding the regulations imposed by any other provisions of this Section, a single-family detached dwelling that complies with the restrictions below may be erected on a nonconforming lot that is not less than 30 feet in width, consisting entirely of one tract of land of not less than 3,000 square feet, and that:

1. Has less than the prescribed minimum lot area, width, and/or depth;
2. Is shown by a recorded plat or deed to have been a lot of record owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size, depth, and width at such location would not have been prohibited by any zoning or other ordinance; and
3. Has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning ordinance or other ordinances.

**B. Regulations for Single-Family Use of Nonconforming Lots**

A nonconforming lot authorized to be used pursuant to this Section may be used for a single-family dwelling and no other structure except for a garage or carport. Construction of such single-family dwelling shall comply with all the regulations (except lot area, width, and depth) applicable to single-family dwellings in the zoning district in which the lot in question is located, except that the following side yard requirements shall apply in place of the side yard requirements otherwise applicable:

1. The dwelling shall be placed on the lot so as to provide a yard on each side of the dwelling.
2. The sum of the widths of the two side yards on such lot shall be not less than the smaller of:
  - a. 25 percent of the width of the lot; or
  - b. The minimum total for both side yards prescribed by the bulk regulations for said zoning district; and
3. No side yard shall be less than three feet wide.

**C. Other Uses of Nonconforming Lots: Site Plan Required**

In any district in which single-family dwellings are not permitted, a nonconforming lot of record which meets the requirements above may be used for any use permitted in the district in which it is located if, but only if, a site plan for such use has been approved in accordance with the provisions of Section 3.5, Site Plan Review.

**D. Lots Made Nonconforming by Right-Of-Way Acquisition**

Any lot made nonconforming solely by means of area dedicated, condemned, sold or otherwise conveyed for public right-of-way shall be allowed to pursue any allowed use as if such area were a part of the remaining lot, except that all applicable setbacks shall be adhered to.

**9.5 Nonconforming Tracts**

Unplatted properties made nonconforming by the zoning applied at the time of annexation shall be allowed to plat, provided that the resulting lot contains the entire tract.

**9.6 Nonconforming Signs**

**A. Continuation Allowed**

A lawfully nonconforming sign may continue in use except as otherwise provided in or authorized by this Section. A change in the information on the face of an existing nonconforming sign is allowed if the change does not increase the area of the sign face and involves no structural alteration.

**B. Alteration, Expansion, Moving**

No nonconforming sign, by voluntary act of the owner, shall be:

1. Changed or altered in any manner which would increase the degree of its nonconformity;
2. Expanded (sign face); or
3. Moved in whole or in part to any other location where it would remain nonconforming.

**C. Signs Required to be Moved by the City**

Any nonconforming sign required to be moved or removed by the City shall be removed or relocated in accordance with the provisions of the Texas Local Government Code.